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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

Robert Miller Photographer, LLC,

Plaintiff,

v.

Evie Media Group, Inc.,

Defendant.

Case No:

**COMPLAINT**

**DEMAND FOR JURY TRIAL**

Plaintiff Robert Miller Photographer, LLC ("*Plaintiff*"), by and through its undersigned counsel, for its Complaint against defendant Evie Media Group, Inc. ("*Defendant*") states and alleges as follows:

**INTRODUCTION**

1. This action seeks to recover damages for copyright infringement.
2. Plaintiff herein creates photographic images and owns the rights to these images which Plaintiff licenses for various uses including online and print publications.

4. Defendant, without permission or authorization from Plaintiff actively copied, stored, and/or displayed Plaintiff's Photograph on the Website and engaged in this misconduct knowingly and in violation of the United States copyright laws.

5. Plaintiff Robert Miller Photographer, LLC is a New York limited liability company and maintains a principal place of business in New York County, New York.

6. Upon information and belief, Defendant Evie Media Group, Inc., is a Delaware corporation with a principal place of business at 1968 South Coast Highway, Suite 315, Laguna Beach in Orange County, California.

7. This Court has subject matter jurisdiction over the federal copyright infringement claims pursuant to 28 U.S.C. §1338(a) and 28 U.S.C. §1331.

8. This Court has personal jurisdiction over Evie Media Group, Inc. because it maintains its principal place of business in California.

9. Venue is proper under 28 U.S.C. §1391(a)(2) because Evie Media Group, Inc. does business in this Judicial District and/or because a substantial part

1 of the events or omissions giving rise to the claim occurred in this Judicial District.

2 **FACTS COMMON TO ALL CLAIMS**

3  
4 10. Plaintiff is a professional photography company by trade that is the  
5 legal and rightful owner of photographs which Plaintiff licenses to online and  
6 print publications.

7  
8 11. Plaintiff has invested significant time and money in building  
9 Plaintiff's photograph portfolio.

10  
11 12. Plaintiff has obtained active and valid copyright registrations from  
12 the United States Copyright Office (the "*USCO*") which cover many of Plaintiff's  
13 photographs while many others are the subject of pending copyright applications.

14  
15 13. Plaintiff's photographs are original, creative works in which  
16 Plaintiff's own protectable copyright interests.

17  
18 14. Evie Media Group, Inc. is the registered owner of the Website and is  
19 responsible for its content.

20  
21 15. Evie Media Group, Inc. is the operator of the Website and is  
22 responsible for its content.

23 16. The Website is a popular and lucrative commercial enterprise.

24 17. The Website is monetized in that it contains paid advertisements and  
25 subscription services and, upon information and belief, Defendant profits from  
26 these activities.  
27  
28

1           18. On September 5, 2020, Plaintiff authored a photograph of a  
2 Starbucks Store with windows boarded up (the “*Photograph*”). A copy of the  
3 Photograph is attached hereto as Exhibit 1.  
4

5           19. The Photograph was registered by USCO on September 25, 2020  
6 under Registration No. VA 2-219-745.  
7

8           20. On October 24, 2022, the copyright rights to this Photograph were  
9 transferred to Defendant.  
10

11           21. On April 11, 2022 Plaintiff first observed the Photograph on the  
12 Website in a story dated September 16, 2020. A copy of screengrab of Website  
13 including the Photograph is attached hereto as Exhibit 2.  
14

15           22. The Photograph was displayed at URL:  
16 [https://www.eviemagazine.com/post/inside-the-privileged-bubble-of-new-yorks-](https://www.eviemagazine.com/post/inside-the-privileged-bubble-of-new-yorks-rich-white-blm-comrades)  
17 [rich-white-blm-comrades](https://www.eviemagazine.com/post/inside-the-privileged-bubble-of-new-yorks-rich-white-blm-comrades).  
18

19           23. The Photograph was stored at URL:  
20 [https://images.ctfassets.net/ydv6sq0kb5bw/6RXer2zDjaprytBDPOtP8q/902f988](https://images.ctfassets.net/ydv6sq0kb5bw/6RXer2zDjaprytBDPOtP8q/902f988202ba9aba6ae359e8f9eeb9ca/riots_starbucks_boarded_up.jpg?w=828&q=50&fit=fill)  
21 [202ba9aba6ae359e8f9eeb9ca/riots\\_starbucks\\_boarded\\_up.jpg?w=828&q=50&fi](https://images.ctfassets.net/ydv6sq0kb5bw/6RXer2zDjaprytBDPOtP8q/902f988202ba9aba6ae359e8f9eeb9ca/riots_starbucks_boarded_up.jpg?w=828&q=50&fit=fill)  
22 [t=fill](https://images.ctfassets.net/ydv6sq0kb5bw/6RXer2zDjaprytBDPOtP8q/902f988202ba9aba6ae359e8f9eeb9ca/riots_starbucks_boarded_up.jpg?w=828&q=50&fit=fill).  
23

24           24. Without permission or authorization from Plaintiff, Defendant  
25 volitionally selected, copied, stored and/or displayed Plaintiff copyright protected  
26 Photograph as is set forth in Exhibit “1” on the Website.  
27  
28

1           25. Upon information and belief, the Photograph was copied, stored and  
2 displayed without license or permission, thereby infringing on Plaintiff's  
3 copyrights (hereinafter the "*Infringement*").  
4

5           26. The Infringement includes a URL ("*Uniform Resource Locator*") for  
6 a fixed tangible medium of expression that was sufficiently permanent or stable  
7 to permit it to be communicated for a period of more than a transitory duration  
8 and therefore constitutes a specific infringement. *17 U.S.C. §106(5); Perfect 10,*  
9 *Inc. v. Amazon.com, Inc.*, 508 F.3d 1146, 1160 (9th Cir. 2007).  
10  
11

12           27. The Infringement is an exact copy of the entirety of Plaintiff's  
13 original image that was directly copied and stored by Defendant on the Website.  
14

15           28. Upon information and belief, Defendant takes an active and  
16 pervasive role in the content posted on its Website, including, but not limited to  
17 copying, posting, selecting, commenting on and/or displaying images including  
18 but not limited to Plaintiff's Photograph.  
19

20           29. Upon information and belief, the Photograph was willfully and  
21 volitionally posted to the Website by Defendant.  
22

23           30. Upon information and belief, the Infringement was not posted at the  
24 direction of a "user" as that term is defined in 17 U.S.C. §512(c).  
25

26           31. Upon information and belief, Defendant was aware of facts or  
27 circumstances from which the determination regarding the Infringement was  
28

1 apparent. Defendant cannot claim that it was not aware of the infringing activities,  
2 including the specific Infringement which form the basis of this complaint, since  
3 such a claim would amount to only willful blindness to the Infringement on the  
4 part of Defendant.  
5

6 32. Upon information and belief, Defendant engaged in the Infringement  
7 knowingly and in violation of applicable United States Copyright Laws.  
8

9 33. Upon information and belief, Defendant has the legal right and  
10 ability to control and limit the infringing activities on its Website and exercised  
11 and/or had the right and ability to exercise such right.  
12

13 34. Upon information and belief, Defendant monitors the content on its  
14 Website.  
15

16 35. Upon information and belief, Defendant has received a financial  
17 benefit directly attributable to the Infringement.  
18

19 36. Upon information and belief, the Infringement increased traffic to  
20 the Website and, in turn, caused Defendant to realize an increase its advertising  
21 revenues and/or merchandise sales.  
22

23 37. Upon information and belief, a large number of people have viewed  
24 the unlawful copies of the Photograph on the Website.  
25

26 38. Upon information and belief, Defendant at all times had the ability  
27 to stop the reproduction and display of Plaintiff's copyrighted material.  
28



1 violation of Plaintiff's rights under 17 U.S.C. §106, Defendant improperly and  
2 illegally copied, stored, reproduced, distributed, adapted, and/or publicly  
3 displayed works copyrighted by Plaintiff thereby violating one of Plaintiff's  
4 exclusive rights in its copyrights.  
5

6 47. Defendant's reproduction of the Photograph and display of the  
7 Photograph constitutes willful copyright infringement. *Feist Publications, Inc. v.*  
8 *Rural Telephone Service Co., Inc.*, 499 U.S. 340, 361 (1991).  
9

10 48. Plaintiff is informed and believes and thereon alleges that the  
11 Defendant willfully infringed upon Plaintiff's copyrighted Photograph in violation  
12 of Title 17 of the U.S. Code, in that they used, published, communicated, posted,  
13 publicized, and otherwise held out to the public for commercial benefit, the  
14 original and unique Photograph of the Plaintiff without Plaintiff's consent or  
15 authority, by using them in the infringing articles on the Website.  
16  
17

18 49. As a result of Defendant's violations of Title 17 of the U.S. Code,  
19 Plaintiff is entitled to any an award of actual damages and disgorgement of all of  
20 Defendant's profits attributable to the infringements as provided by 17 U.S.C. §  
21 504 in an amount to be proven or, in the alternative, at Plaintiff's election, an  
22 award for statutory damages against each Defendant for each infringement  
23 pursuant to 17 U.S.C. § 504(c).  
24  
25

26 50. As a result of the Defendant' violations of Title 17 of the U.S. Code,  
27  
28

1 the court in its discretion may allow the recovery of full costs as well as reasonable  
2 attorney's fees and costs pursuant to 17 U.S.C. § 505 from Defendant.

3  
4 51. As a result of Defendant's violations of Title 17 of the U.S. Code,  
5 Plaintiff is entitled to injunctive relief to prevent or restrain infringement of his  
6 copyright pursuant to 17 U.S.C. § 502.

7  
8 **JURY DEMAND**

9 52. Plaintiff hereby demands a trial of this action by jury.

10 **PRAYER FOR RELIEF**

11  
12 **WHEREFORE** Plaintiff respectfully requests judgment as follows:

13 That the Court enters a judgment finding that Defendant has infringed on  
14 Plaintiff's rights to the Photograph in violation of 17 U.S.C. §501 et seq. and  
15 award damages and monetary relief as follows:  
16

- 17 a. finding that Defendant infringed Plaintiff's copyright interest  
18 in the Photograph by copying and displaying without a license  
19 or consent;  
20  
21 b. for an award of actual damages and disgorgement of all of  
22 Defendant's profits attributable to the infringements as  
23 provided by 17 U.S.C. § 504 in an amount to be proven or, in  
24 the alternative, at Plaintiff's election, an award for statutory  
25 damages against each Defendant for each infringement  
26  
27  
28

pursuant to 17 U.S.C. § 504(c), whichever is larger;

- c. for an order pursuant to 17 U.S.C. § 502(a) enjoining Defendant from any infringing use of any of Plaintiff's works;
- d. for costs of litigation and reasonable attorney's fees against Defendant pursuant to 17 U.S.C. § 505;
- e. for pre judgment interest as permitted by law; and
- f. for any other relief the Court deems just and proper.

DATED: August 3, 2023

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